



## COCHISE COUNTY

# COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

### MEMORANDUM

**TO:** Board of Supervisors  
Through: Michael J. Ortega, County Administrator

**FROM:** Peter Gardner, Planner I  
For: Beverly Wilson, Planning Director

**SUBJECT:** Docket MDP-14-01/Z-14-02 (Carr)

**DATE:** June 25, 2014, for the July 9, 2014 Meeting

### APPLICATION FOR A MASTER DEVELOPMENT PLAN & REZONING

The Applicant has acquired a non-conforming 0.50-acre parcel of RU-4 property in unincorporated Tombstone. He intends to rezone this Parcel to SR-22 to allow construction of a site-built home and septic system and must amend the comprehensive plan to do so. Such an amendment requires a Master Development Plan.

The property is an unaddressed Parcel (108-15-061G) is adjacent to the Diamond Acres subdivision, north of incorporated Tombstone, just off Highway 80 between Mileposts 313 and 314, on Spanish Bayonet Drive. The Applicant is Douglass Carr.

### I. PLANNING AND ZONING COMMISSION MEETING ON JULY 9, 2014

After staff's presentation, the Applicant reiterated that this request is intended to facilitate the residential development of the parcel, and expressed a willingness to accept a zoning that would only permit site-built homes if that was what was required to move forward. After brief discussion, the Planning and Zoning Commission voted unanimously (5-0) to forward a recommendation of *Conditional Approval* to the Board of Supervisors with a zoning of SR-22 rather than R-18.

### II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

|                                 |  |
|---------------------------------|--|
| Size:                           | 22,252.87-square feet (0.50-acres)     |
| Zoning:                         | RU-4 (Rural, one dwelling per 4-acres) |
| Growth Area:                    | Category D (Rural Area)                |
| Area Plan:                      | None                                   |
| Comprehensive Plan Designation: | Rural                                  |
| Existing Uses:                  | Vacant                                 |
| Proposed Uses:                  | Single Family Residence                |

### **Surrounding Zoning**

| Relation to Subject Parcel | Zoning District | Use of Property                |
|----------------------------|-----------------|--------------------------------|
| North                      | RU-4            | Single Family Residence        |
| South                      | MH-72           | Single Family Residence        |
| East                       | RU-4/MH-72      | Vacant/Single Family Residence |
| West                       | RU-4            | Vacant                         |

### **III. PARCEL HISTORY**

The parcel was split into its current, non-conforming configuration in 2002. The Applicant took ownership of the parcel in 2012. There is no permit or violation history on the parcel.



*West view of the existing neighborhood.*

### **IV. NATURE OF REQUEST**

The Applicant, Douglass Carr, wishes to construct a single-family dwelling on the parcel. The half-acre parcel is zoned RU-4 (Rural, one dwelling per four-acres), which makes it a non-conforming lot. Due to this non-conformance, Staff may not issue building permits for the property. To rectify the non-conformance, the Applicant has requested a rezoning to a density that will accommodate his desire to construct a home on the parcel. There are a number of zoning districts that would render the site compliant; however, the area is located within an area of the County designated as Growth Category D under the Comprehensive Plan. Category D areas normally only permit Rural and assorted Residential zoning districts with a minimum lot size of two-acres or more in size, or the Heavy Industry district. Exceptions to this may be made if authorized under an area, community, or master development plan. Under the Zoning Regulations, the only method the Applicant can utilize

to reach his goal of building on this parcel is to request a Master Development Plan approval. The MDP process will then allow him to request the change in zoning district, to make the parcel conforming.

The Applicant's original request was to rezone the parcel to R-18 (Residential, one dwelling per 18,000-square feet), but in light of neighbor concerns regarding the placement of a manufactured home, Staff is recommending, with the Applicant's permission, a rezoning to SR-22 (Single-Household Residential, one dwelling per 22,000-square feet), a more restrictive zoning district as only site-built homes will be allowed.

## **V. ANALYSIS OF IMPACTS**

### **Mandatory Compliance**

The subject property lies within a Category "D"—Rural Area and is considered a "Rural" land use designation area per the *Comprehensive Plan*. Section 402 of the County Zoning Regulations permits only Zoning Districts with a minimum lot size of two-acres or more, or the Heavy Industry District unless another Plan supersedes this requirement. The proposed Master Development Plan would therefore permit a Zoning District that will render the site compliant.



*View of the lot on the right behind the existing homes.*

### **Compliance with Rezoning Criteria**

Section 2208.03 of the Zoning Regulations provides 15 criteria used to evaluate rezoning requests. 11 of the criteria are applicable to this request, which, as submitted, complies with each of the 11 applicable factors.

#### ***1. Provides an Adequate Land Use/Concept Plan—Complies.***

The Applicant has submitted a concept plan, and, as this request is a single parcel suitable for the development of one Single Family Residence, a full site plan may be deferred until permit submittal. Note that Section 2208.03.B.1 of the Zoning Regulations does not relate specifically to what is proposed. That is, the rezoning would not facilitate a new residential subdivision development and so would not require a new subdivision plat submittal.

***2. Compliance with the Applicable Site Development Standards—Complies.***

The site will be able to comply with all site development standards for the SR-22 Zoning Districts.

***3. Adjacent Districts Remain Capable of Development—Complies.***

The proposal would not affect the development prospects of any neighboring property.

***4. Limitation on Creation of Nonconforming Uses—Complies.***

The proposal would not create any non-conforming land uses.

***5. Compatibility with Existing Development—Complies.***

There is no existing development, and the proposed Zoning District is compatible with the adjoining RU-4 and MH-72 Districts. The SR-22 District in particular fits with the existing residential development of single family, site-built homes.

***6. Rezoning to More Intense Districts—Complies.***

Either proposed zoning district provides a reasonable transition between the RU-4 and MH-72 zoning districts.

***7. Adequate Services and Infrastructure—Complies.***

The site has potential for all necessary utilities.

***8. Traffic Circulation Criteria—Complies.***

The site takes access from a residential street, which currently serves several residential properties.

***9. Development Along Major Streets—Not Applicable.***

The property does not border any major street.

***10. Infill—Not Applicable.***

This Factor applies only for rezoning requests to GB, LI or HI, and is therefore not applicable.

***11. Unique Topographic Features—Not Applicable.***

The size of the site and proposed Zoning Districts do not permit the intense development this factor applies to.

***12. Water Conservation—Complies.***

The site lies within the Sierra Vista Sub-Watershed overlay zone, and residential development must comply with applicable water conservation measures.

***13. Public Input—Complies.***

While several statements of opposition have been received by Staff, the focus of the opposition has been the Applicant's proposal to install a manufactured home. Both the RU-4 and MH-72

Districts do permit manufactured and rehabilitated mobile home, though the adjacent Diamond Acres subdivision, though zoned MH-72, does not permit either. Therefore, Staff, with the Applicant's permission, is requesting a rezoning to SR-22, which does not permit manufactured or mobile homes.

#### **14. Hazardous Materials – Not Applicable.**

No hazardous materials are proposed as part of the development plan.

#### **15. Compliance with Comprehensive and Master Development Plan - Complies**

While a very minor Master Development Plan is required in this case due to the interaction of the Zoning Regulations and Comprehensive Plan in this area, the request satisfies the intent of the Comprehensive Plan by creating a buffer of moderate density between RU-4 and MH-72 Zoning Districts.

#### **Compliance with Master Development Plan Criteria**

This case is an unusual application of the Master Development Plan process due to the odd comprehensive plan designations in the surrounding area. The Zoning Regulations list a number of requirements for a Master Development Plan, and grant the Zoning Inspector the authority to waive any requirements that are not applicable to a particular project. In this case, the only requirement that is applicable is water conservation, which has been addressed in the Rezoning Factors above.

#### **VI. SUMMARY**

This rezoning request pertains to a single non-conforming lot north of Tombstone. The Applicant has acquired the lot ten years after the non-compliant situation was created by a previous owner, and wishes to develop the property with a single-family dwelling. Due to unusual circumstances involving Comprehensive Plan Designations and their effect on the Zoning Regulations regarding rezonings, a Master Development Plan must also be approved. This request is outside the intended use of the Master Development Plan process, and all but one of the requirements for such a Plan are not applicable in this case. Essentially, the Plan is a procedural issue to legitimize an otherwise straightforward request.

In Staff's analysis, the major issue that has arisen in the opposition of neighboring property owners to the installation of a manufactured home on the site, citing property value concerns and an expectation of the area permitting only site built homes. The Applicant has expressed a willingness to construct a site built home instead of a manufactured home if that is necessary to allow him to develop the property. Staff therefore recommends amending the zoning with an SR-22 zoning, which would not permit a manufactured home, and would keep all other site development standards the same, or tighten them in the case of minimum lot size.

Staff's recommendation is based upon the above analysis, as well as the following Factors in Favor and Against approval:

#### **Factors in Favor of Approval**

1. Allowing the request would be in keeping with the character of the area which is undeveloped land, and scattered single family, site-built homes;
2. The Comprehensive Plan policies encourage buffers of moderate density between dissimilar Zoning Districts (in this case RU-4 and MH-72);

3. With the change requested by Staff of using SR-22 rather than R-18 zoning, concerns regarding manufactured homes will be assuaged;
4. The request complies with each of the 11 applicable factors used by Staff to analyze such requests; and
5. One neighbor has expressed support for the project in writing.

#### **Factors Against Approval**

1. The request comes as a result of a request to legitimize a non-conforming lot; and
2. Two neighboring property owners have expressed opposition based on the decline property values relating to manufactured homes.

#### **VII. RECOMMENDATION**

Based on the Factors in Favor of Approval, staff recommends **approval**, subject to the following standard Conditions:

1. The Zoning be changed to SR-22 rather than R-18;
2. The Applicant shall provide the County with a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning; and
3. It is the Applicant's responsibility to obtain any additional permits, or meet any additional conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations.

*Mr. Chair, I recommend we conditionally approve Docket MDP-14-01/ Z-14-02 to the Board of Supervisors, subject to the Conditions recommended by staff.*

#### **VII. ATTACHMENTS**

- A. Rezoning Application
- B. Master Development Plan Application
- C. Concept Plan
- D. Location Map
- E. Neighbor Response